

**OPINION  
45-170**

April 11, 1945 (OPINION)

INSURANCE

RE: Public Property - Free Insurance

Your letter of April 9 addressed to the attorney general has been received and referred to the undersigned for attention and reply.

You state that the North Dakota Experiment Station has recently obtained title to what was known as the Ward County Poor Farm. For a number of years, while the title to the property was vested in Ward County, the buildings thereon were insured with the state fire and tornado fund. Under Ward County ownership, these buildings have been insured for a period of more than five years and were therefore on what is known as the "free" list provided by section 267-2414 of the North Dakota Revised Code of 1943. You ask for our opinion as to whether the transfer from Ward County to the State of North Dakota removes this property from the "free" list and thus places it in the premium paying bracket.

Section 26-2414 provides that, "Any property which shall not have been insured in the fund for a period of at least five years shall be charged a premium equal to fifty percent of the rate established by the fire underwriters inspection bureau. After any such property shall have been insured in the fund for a period of five years, it shall not thereafter be chargeable with any insurance premium but shall be subject to assessment as provided in this chapter."

Section 26-2409 provides that, "The commissioner of insurance shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke, and vehicles, all in the manner and subject to the restrictions of the standard fire insurance policy and standard extended coverage endorsement, and no other hazards, in the fund, on all buildings owned by the state, state industries, and political subdivisions of the state, \* \* \*."

In the case you present, the buildings in question were owned by a political subdivision of the state for more than five years and thus earned the right to free insurance as provided by section 26-2414. The fact that the ownership was transferred from Ward County to the State of North Dakota does not change the character of the buildings since the property is still owned by the State of North Dakota, and would therefore be within the provisions of section 26-2409.

It is our opinion, therefore, that the change of ownership, so long as the ownership is in the state or in one of its political subdivisions, does not affect the free insurance provision where the property has been insured for five years or more.

NELS G. JOHNSON

Attorney General